

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

DAVID E. HUESTON,)
)
Plaintiff,)
)
vs.) CAUSE NO. 1:10CV390 PS
)
DARRYL HEIMLICK, Sheriff,)
RANDY ALBERTSON,)
CATHY D. LEE and)
BRYAN KIRKPATRICK,)
)
Defendants.)

ORDER OF DISMISSAL

Plaintiff David Hueston filed this action *pro se* while a prisoner in the Grant County Jail, alleging violations of his constitutional rights by county officials there. Several months later, the Clerk received notice of a change of address indicating that Hueston had been released from the jail. The United States Magistrate Judge has issued a report identifying Hueston's three failures to comply with the court's orders to appear before the court or to file a show cause statement. The magistrate judge further recommends that the case be dismissed under Fed.R.Civ.P. 41(b) and Local Rule 41.1, as a sanction for Hueston's repeated failure to appear and prosecute his case. Hueston was granted time in which to file objections to the magistrate judge's proposed findings or recommendations, and has filed nothing.

ACCORDINGLY:

After careful consideration, the **Report and Recommendation** of the United States Magistrate Judge [DE 33] is accepted and adopted.

Because it appears that plaintiff Hueston has abandoned his case, and that his failures to prosecute his case and comply with court orders warrant dismissal, the **action is dismissed**

pursuant to Fed.R.Civ.P. 41(b). As that rule provides, this dismissal operates as an adjudication on the merits. The Clerk shall enter judgment accordingly.

SO ORDERED.

ENTERED: June 13, 2011

/s/ Philip P. Simon
PHILIP P. SIMON, CHIEF JUDGE
UNITED STATES DISTRICT COURT